THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.10966 of 2006

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DATED: 01-06-2006

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Between:

P.Rajeswari . . .Petitioner

and

The District Collector, Nellore, and others . . .Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.10966 of 2006

O R D E R:

The petitioner challenges the proceedings initiated under the Land Acquisition Act (for short "the Act") to acquire the land in Survey Nos.13 and 14 etc., of Muthukur Village and Mandal of Nellore District. The lands are sought to be acquired for the development of Krishnapatnam Port Trust. The petitioner contends that the respondents have dispensed with the enquiry under Section 5-A of the Act, though there does not exist any impending urgency for the acquisition.

Heard Mr. P.Sridhar Reddy, learned counsel for the petitioner and learned Government Pleader for Land Acquisition.

The Land Acquisition Act mandates that after a draft notification under Section 4(1) of the Act is issued, an enquiry under Section 5-A of the Act must be conducted and only after such a step, a declaration under Section 6 of the Act must be published. Section 17 of the Act enables the authorities concerned, to dispense with the enquiry under Section 5-A of the Act in case there exists any imminent urgency. The Andhra Pradesh State Legislature amended Section 17 of the Act adding a list of situations in which the enquiry under Section 5-A of the Act can be dispensed with. Acquisition for the benefit of development of a Port Trust does not find place in the list.

It must not be forgotten that the enquiry under Section 5-A of the Act is the only remedy in the field of compulsory acquisition by the Government. Such a limited remedy granted to a citizen cannot be easily taken away.

For the foregoing reasons, the writ petition is allowed and the declaration, dated 04-01-2006, under Section 6 of the Act issued in respect of the lands of the petitioner is set aside. The respondents shall conduct enquiry under Section 5-A of the Act and take further proceedings, depending upon the outcome of such enquiry. There shall be no order as to costs.

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(L.NARASIMHA REDDY, J)

1st JUNE, 2006.

Note: issue c.c. tomorrow.

B/o

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